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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/373,141	08/12/1999	GABRIEL N. ISSA	ISSA.0101.PU	2234

22045 7590 12/02/2003

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EXAMINER
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KANOF, PEDRO R

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 10

Application Number: 09/373,141

Filing Date: August 12, 1999

Appellant(s): Gabriel N. Issa

Thomas W. Staur

For Appellant

EXAMINER'S ANSWER

MAILED

DEC 02 2003

GROUP 3600

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DEC 02 2003

GROUP 3600

This is in response to the appeal brief filed 9/22/03.

(1) ***Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

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**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1-31, claims 36-62, and claim 63 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

6,260,024

SHKEDY

7-2001

**(10) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-63 are rejected under 35 U.S.C. 102(e) as being anticipated by Shkedy (U. S. Patent No. 6,260,024).

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Claims 1 and 32: Shkedy discloses a computer site and a method for conducting an online auction of a monetary amount for a specified item or category of items, the method comprising:

receiving at a computer site at least one bid having a discount rate for the specified item or category of items being auctioned from a plurality of sellers registered to participate in the auction (Col. 7, lines 49-58, and col. 8, lines 41-54);

receiving at the computer site a commitment to buy an undiscounted value amount of the item or an undiscounted value amount within the specified category of items at a minimum discount rate from at least one buyer registered to participate in the auction (Col. 7, lines 12-48, and col. 8, lines 21-28); and

declaring at least one successful seller of the value amount for the specified item or category of items based on the bid from the successful seller or sellers having the greatest discount rate greater than or equal to the minimum discount rate and best meeting the buyer's individual conditions (Col. 7, lines 21-25 and col. 9, lines 3-35).

Claims 2 and 33: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a commitment to buy an undiscounted value amount at a minimum discount rate is received from each of a plurality of buyers and wherein the method further comprises pooling the plurality of buyers to obtain various pooled award amounts and wherein the at least one successful seller is declared of his respective pooled award amount for the specified item or category of items (Col. 2, lines 43-67).

Claims 3, 4, 34, and 35: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the items are products, and services (Col. 2, lines 43-67).

Claims 5 and 36. Shkedy discloses a computer site and a method as claimed in claims 2 and 33, wherein the plurality of buyers are independent and/or unrelated (Col. 2, lines 43-67).

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Claims 6 and 37: Shkedy discloses a computer site and a method as claimed in claims 2 and 33, further comprising receiving at the computer site information representing a minimum award amount or predefined sequence of minimum award amounts corresponding to a predefined sequence of discount bids that each seller is willing to accept from the pooled buyers for a given category (Col. 7, lines 21-25, and col. 29, line 25-col. 32, line 10).

Claims 7 and 38: Shkedy discloses a computer site and a method as claimed in claims 2 and 33, comprising receiving at the computer site information representing a maximum award amount that a seller is capable of accepting and willing to accept from the pooled buyers (Col. 17, line 23-col. 18, line 36).

Claims 8 and 39: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, further comprising receiving at the computer site information representing a method of guaranteeing the value amount from the at least one buyer (Col. 22, line 61-col. 23, line 50).

Claims 9 and 40: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein at least one seller is pre-approved to sell the specified item or category of items (Col. 23, line 51-col. 24, line 45).

Claims 10 and 41: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, further comprising receiving at the computer site information representing any sellers unacceptable to the at least one buyer Col. 3, line 1-col. 4, line 59).

Claims 11 and 42: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the computer site is a Web site (Col. 1, line 31-col. 2, line 23).

Claims 12 and 43: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the auction is a reverse auction (Col. 21, line 3-col. 22, line 25).

Claims 13 and 44: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the auction ends a fixed period of time after the auction begins (Col. 22, line 61-col. 23, line 28).

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Claims 14 and 45: .Shkedy discloses a computer site and a method as claimed in claims 1 and 32, further comprising receiving at the computer site a command from the at least one buyer to try to end the auction for the at least one buyer wherein a successful seller of the value amount for the at least one buyer can be declared before the preset auction expiration time (Col. 25, line 20-col. 26, line 45).

Claims 15 and 46: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, further comprising receiving at the computer site a command from the at least one buyer to try to end the auction for the at least one buyer wherein a successful seller of the value amount for the at least one buyer can be declared before the end of the auction (Col. 26, lines 46-64).

Claims 16 and 47: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the successful seller is determined by the buyer's pre-defined conditions (Col. 27, line 8-col 27, line 62).

Claims 17 and 48: .Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the seller with the highest bid for discount rate is the successful seller (Col. 28, 62-col.29, line 18).

Claims 18 and 49: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein there is more than one successful seller for a given auction (Col. 29, line 25-col. 32, line 10).

Claims 19 and 50: .Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a buyer account is assigned to the registered buyer (Col. 6, line 18-col. 7, line 4).

Claims 20 and 51: .Shkedy discloses a computer site and a method as claimed in claims 19 and 50, wherein the buyer account includes various inter-linked sub-accounts (Col. 17, lines 23-60).

Claims 21 and 52:. Shkedy discloses a computer site and a method as claimed in claims 20 and 51, wherein the sub-accounts are linked to at least one external account of the registered buyer held by a financial institution (Col. 18, lines 23-36).

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Claims 22 and 53: Shkedy discloses a computer site and a method as claimed in claims 21 and 52, wherein the buyer's funds can be transferred between the various sub-accounts and also between the sub-accounts and external accounts held by other financial institutions (Col. 20, lines 21-35).

Claims 23 and 54: Shkedy discloses a computer site and a method as claimed in claims 22 and 53, wherein the registered buyer can transfer funds or reassign buying power amounts to the account of another registered buyer or a registered seller (Col. 21, lines 3-45).

Claims 24 and 55: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a seller account is assigned to each registered seller (Col. 21, line 52-col. 22, line 25).

Claims 25 and 56: Shkedy discloses a computer site and a method as claimed in claims 24 and 55, wherein the seller account includes various inter-linked sub-accounts (Col. 3, line 1-col. 4, line 59, and col. 17, line 23-col. 18, line 36).

Claims 26 and 57: Shkedy discloses a computer site and a method as claimed in claims 25 and 56, wherein the sub-accounts are linked to at least one external account of the at least one seller held by a financial institution (Col. 21, lines 3-45).

Claims 27 and 58: Shkedy discloses a computer site and a method as claimed in claims 26 and 57, wherein the seller's funds can be transferred between the various sub-accounts and also between the sub-accounts and external accounts held by other financial institutions (Col. 21, line 52-col. 22, line 7).

Claims 28 and 59: Shkedy discloses a computer site and a method as claimed in claims 27 and 58, wherein the at least one registered seller can transfer funds or reassign buying power amounts to the account of another registered buyer or a registered seller (Col. 22, lines 8-25).

Claims 29 and 60: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a seller account is assigned to each registered seller. wherein the step of receiving at least one bid includes receiving a bidding table for at least one seller in which the at least one seller

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commits to a sequence of bids corresponding to a sequence of value amounts for a given category (Col. 22, line 61-col. 23, line 50).

Claims 30 and 61: ..Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a seller account is assigned to each registered seller. wherein each of the sellers is pre-approved to sell the specified item or category of items (Col. 23, line 51-col. 24, line 45).

Claims 31 and 62: .Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a seller account is assigned to each registered seller. wherein the auction ends an undetermined period of time after the auction' begins (Col. 17, line 23-col. 18, line 36).

Claim 63: Shkedy discloses a computer-implemented auction system for negotiating discount credits between sellers offering at least one pre-defined category of goods or service items and buyers wishing to purchase goods or service items selected from said category, comprising:

an auction system that presents a first interface for access by buyers in communicating willingness to purchase items selected from a pre-defined category at a negotiated category discount and a second interface for access by sellers in communicating willingness to offer items selected from the pre-defined category (Col. 1, line 31-col. 2, line 23, and col. 17, line 23-col. 18, line 36);

the first interface including a commitment amount field through which each buyer communicates the amount that buyer will commit to spend and a requested discount field through which each buyer communicates the smallest discount that buyer will accept (Col. 2, lines 43-67, and col. 20, lines 21-35);

a data storage associated with the auction engine for storing the identity of buyers who have communicated willingness to purchase items from the pre-defined category, and for storing bid data indicative of the commitment amount and requested discount communicated by each buyer (Col. 6, line 18-col. 7, line 4, and col. 21, line 3-col. 22, line 25);

the auction system further having a compilation system that analyzes the bid data to present information to sellers through the second interface indicative of the aggregate commitment amounts associated with different requested discounts (Col. 7, line 12-col. 8, line 54, and col. 22, lines 26-60);



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the second interface having a discount offer field through which each seller communicates the discount that seller is willing to offer (Col. 9, line 3, col. 10, line 67, and col. 22, line 61-col. 23, line 50);

a commitment system having a mechanism for terminating negotiation in response to a pre-defined criterion and for identifying a selected seller that has offered the greatest discount during the negotiation (Col. 12, line 10-col. 13, line 6, col. 23, line 53-col. 24, line 45, and col. 13, line 45-col. 14, line 25);

the commitment system communicating with the auction system to generate a discount record for at least a portion of the buyers identified in the data store, each discount record including the identity of the buyer and seller, the pre-defined category on which the buyer negotiated and data indicative of the commitment amount and the discount offered by the selected seller (Col. 25, line 22-col. 26, line 64, col. 15, line 6-col. 17, line 22, and col. 27, line 8-col. 32, line 10).

**(11) *Response to Argument***

**Issue A**

Appellant's states that in Shkedy: "The seller is only notified of a price he or she has to beat, not a discount rate, and, in fact, teaches away from such a step" (Page 7, lines 2 and 3).

Examiner notes that Shkedy discloses: "In another embodiment of the present invention, the intermediary could pre-negotiate supply contract with a major supplier, prior to forming the buyer pool. Prospective buyers could view the pre-negotiated contract as a criterion for deciding whether or not they wish to participate in the pool. The pre-negotiated seller contract terms would be automatically available to any individual who joins the pool. In this embodiment, the intermediary pre-negotiates a contract with the seller such as an office supply company whereby the terms of the contract specify that the office supply company would beat any published competitors price and provide an additional 5%discount to the collective buyer pool on condition that the intermediary (i.e. collective buyer pool)exclusively purchase supplies from them for a whole year. Under this scenario, the pool is unconditionally guaranteed an up-front cost savings." (Col. 7, lines 26-42).

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Thus, Shkedy is notified also of a discount rate, and consequently covers the steps of claim 1.

Issue B.

Appellant's states that: "Shkedy fails to disclose, teach or suggest a computer site for conducting an online auction of a monetary amount for a specified category of items as presently claimed." (Page 7, lines 22-24).

Examiner notes that Shkedy discloses: "One embodiment of the present invention divides the functionality of the central controller 200 into three components and embodies them in three separate servers: an operations server, a certificate authority. And a settlement server. The certificate authority authenticates the identity of buyers and sellers while the settlement serve verifies their ability to pay or deliver goods. The operations server post FPOs PPOs and bids relying upon messages from the other two servers for validation. The configuration allows greater specialization of the servers." (Col. 7, lines 49-58). Moreover, Shkedy also discloses: "The method and apparatus of the present invention will now be discussed with reference to FIGS. 1,2,3, and 4. In a preferred embodiment, the present invention includes central controller 200, seller interface 300, buyer interface 400, and associated databases. The present invention receives forward purchase orders from buyers, creates pooled purchase orders, makes the pools orders available for viewing by potential sellers, and allows sellers to bid on them. A buyer is able to communicate his commitment to the pool. The intermediary is able to communicate his ability to follow through on an order to a seller, giving the seller confidence that if he can produce the goods at the best price, an intermediary (the buyer pool) has the ready capacity to pay." (Col. 8, lines 41-54).

Thus, Shkedy discloses a computer site for conducting an online auction of a monetary amount for a specified category of items as presently claimed.

Issue C.

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Appellant's argues that Shkedy does not: "...provide for terminating negotiation in response to a pre-defined criterion and for identifying a selected seller that has offered the greatest discount during the negotiation as presently claimed." (Page 10, lines 2-4).

Examiner notes that Shkedy discloses: "When the optimal bid has been determined, the central controller contacts the buyer and the seller to indicate that they are mutually bound. Central controller 200 may transfer the intermediary credit card information to the seller as soon as the optimal bid on PPO 110 has been determined." (Col. 13, lines 1-6). Moreover, Shkedy discloses such as a step in col. 13, line 45-col. 14, line 25.

Thus, Shkedy discloses provide for terminating negotiation in response to a pre-defined criterion and for identifying a selected seller that has offered the greatest discount during the negotiation as presently claimed.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

PRK

November 29, 2003

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